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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
ALIE, GHASSEM	

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/001,708	STOICK ET AL.
	Examiner	Art Unit
	Ghassem Alie	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-20* is/are pending in the application.

4a) Of the above claim(s) *14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 August 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *08/26/02-10/14/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Election/Restrictions

1. Applicant's election without traverse of Invention I (claims 1-13 and 15-20) in the reply filed on 10/05/04 is acknowledged.

Claim 14 has been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-13, and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Baltuch (2,254,199). Regarding claim 1, Baltuch teaches a tubing cutter 10 to snap onto and circumferentially grasp plastic tubing to facilitate the rotational cutting of the tubing, the cutter 10 includes a cutter body 15, 16 having a front piece 11 removably securable to a back piece 12 such that securement of the front piece 11 and the back piece 12 from the body 15, 16. The cutter 10 is capable of cutting plastic tubing and it inherently can grasp tubing with a one size larger diameter than the diameter of the grasping portion 23 of the body 15, 16. The grasping portion has a C-shaped, which is similar to the other C-shaped grasping portion for the tubing in patent to Garton (4,831,732) or VanderPol et al. (4,890,385). Baltuch also teaches a C-shaped grasping portion 23 formed in the body 15, 16, wherein the C-shaped grasping portion receives the plastic tubing with snap engagement and securely retains the plastic tubing during the cutting of the tubing. The cutter 10 grips and holds he material to be severed before the actual severing takes place. In addition, the grasping portion 23 of the

body 16 inherently receives the tubing with a larger size in a snap engagement manner. Baltuch also teaches a fixed blade 19 removably secured between the front 11 and back 12 pieces of the body 15, 16 such that an exposed portion of the blade 19 extends into the grasping portion whereby rotational movement of the engagement of the cutter around the outer surface of the tubing facilitates cutting. The blade is fixed to the body since it is secured to the body and it does not fall down from the body 15, 16. See Figs. 1-5 and col. 2, lines 1-55 in Baltuch.

Regarding claims 2-4 and 6-10, Baltuch teaches everything noted above including that the inner diameter of the C-shaped grasping portion is smaller than the outer diameter of the tubing. A tubing with slightly larger diameter than the grasping portion inherently could be snapped into the spaced within the grasping portion. The rotational movement of the cutter 10 inherently cuts the tubing a distance short of the thickness of the tubing. Baltuch also teaches that the blade 19 is a single-edged razor blade and the front piece 11 and the back piece 12 are secured to one another with screws 22, 14. Baltuch also teaches that the body 15, 16 is symmetrical along the axis defining the width and thickness of the body. Figs. 1-5 in Baltuch.

Regarding claims 11-13, Baltuch teaches everything noted above including that the grasping portion 23 makes substantial surface contact around the circumference of the tubing a distance necessary to forcefully receive the tubing. A tubing with slightly larger diameter than the grasping portion inherently could be snapped into the spaced within the grasping portion. Baltuch also teaches that the contact around the circumference of the tubing is a

distance between 51 to 75 percent of the circumference of the tubing. See Figs. 1-5 in Baltuch.

Regarding claim 15, Baltuch teaches everything noted above including a gripping portion formed in the body by at least one arcuate depression for human handing of the cutter 10. The arcuate depression between the head 16 and the handle 15 could be as a grip portion for human handling of the cutter 10. See Figs. 1-5 in Baltuch.

Regarding claims 16-20, Baltuch teaches everything noted above including that the cutter blade 19 is positioned to extend into the tubing receiving region 23 a distance less than the specified wall thickness of the tubing. Tubing with specified wall thickness, which is less than the extended distance of the blade into the tubing receiving region can be inherently, be inserted into the tubing receiving region. Baltuch also teaches that the tube cutter includes cooperating protrusion and recess for aligning the body pieces together. Cooperating protrusions and recesses inherently are located within their interior surfaces of the body pieces 11, and 12. See Figs. 1-5 in Baltuch.

4. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Baun (3,636,629). Regarding claims 11-13, Baun teaches a C-shaped tubing cutter 10 a fixed blade 12 and a C-shaped grasping portion 18 capable of snap engagement and circumferential grasping of plastic tubing 40 for rotational cutting of the tubing, wherein the grasping portion 18 makes substantial surface contact around the circumference of the tubing a distance necessary to forcefully receive the tubing 40. The distance is between 51 to 75 percent of the circumference of the tubing 40. See Figs. 1-4 and col. 2, lines 11-75 and col. 3, lines 1-71 in Baun.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baltuch in view of Janky (5,815,866). Regarding claim 5, Baltuch teaches everything noted above except that the cutter is made of high density polyethylene. However, Janky teaches a cutter made of high density polyethylene. Se col. 3, lines 61-67 and col. 4, lines 1-5 in Janky. It would have been obvious to a person of ordinary skill I the art to make Baltuch's cutter from high density polyethylene material as taught by Janky in order to ensure that the cutter resist moisture, abrasion, and chemical.

To the degree that it could be argued that the arcuate portion of the body 15, 16 is not for human handing of the cutter 10 in Baltuch, the rejection below is applied.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baltuch in view of Pfeiffer et al. (6,434,776), hereinafter Pfeiffer. Regarding claim 15, Baltuch teaches everything noted above, but Baltuch does not expressly teach a gripping portion formed in the body by at least one arcuate depression for human handing of the cutter. However, Pfeiffer teaches a gripping portion 16 formed in a body 10 by at least one arcuate depression for human handing of the cutter. See Fig. 2 and col.5, lines 6-15 in Pfeiffer. It would have been obvious to a person of ordinary skill I the art to provide Baltuch's cutter with a griping portion as taught by Pfeiffer in order to facilitate the gripping of the cutter or alternatively

use the gripper portion for gripping the cutter instead of gripping the handle, since both gripping the handle or the body serves the same purpose which is holding the cutter.

8. Claims 1-4, 7-10, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baun in view of Baltuch. Regarding claim 1, Baun teaches a tubing cutter 10 to snap onto and circumferentially grasp plastic tubing 40 to facilitate the rotational cutting of the tubing, the cutter 10 includes a cutter body 14, 16 having a front piece 14. The cutter 10 inherently receives tubing with a larger diameter than the diameter of the grasping portion in snap engagement manner. Baun also teaches a C-shaped grasping portion 18 formed in the body 14, 16, wherein the C-shaped grasping portion 18 receives the plastic tubing with snap engagement and securely retains the plastic tubing during the cutting of the tubing 40. Baun also teaches a fixed blade 12 removably secured to the front piece 14 such that an exposed portion 44 of the blade 12 extends into the grasping portion 18 whereby rotational movement of the engagement of the cutter 10 around the outer surface of the tubing 40 facilitates cutting. See Figs. 1-4 and col. 2, lines 11-75 in Baun. Baun does not teach that the cutter body also has a back piece, which is removably secured to the front piece, and the blade is removably secured between the back piece and the front piece of the body. However, Baltuch teaches a cutter body 15, 16 having a front piece 11 removably securable to a back piece 12 such that securement of the front piece 11 and the back piece 12 from the body 15, 16. Baltuch also teaches that a blade 19 removably secured between the front piece 11 and the back piece 12. Se Figs. 1-5 in Baltuch. It would have been obvious to a person of ordinary skill in the art to provide a back piece for the body of Baun's cutter as taught by Baltuch in order to extend the support surface for the tubing during the cutting

operation and reduce the chance of inadvertent contact of the operator or a person with the blade.

Regarding claims 2-4, Baun teaches everything noted above including that the inner diameter of the C-shaped grasping portion 18 is smaller than the outer diameter of the tubing. A tubing with slightly larger diameter than the grasping portion inherently could be snapped into the spaced within the grasping portion. The rotational movement of the cutter 10 cuts the tubing 40 a distance short of the thickness of the tubing. See Figs. 1-4 in Baun.

Regarding claims 7-10, Baun as modified by Baltuch also teaches that the blade 12 is secured between the front piece 11 and the back piece 12, as taught by Baltuch, are secured to one another with screws 22, 14. Baltuch also teaches that the body 15, 16 is symmetrical along the axis defining the width and thickness of the body. See Figs. 1-5 in Baltuch.

Regarding claim 15, Buan as modified by Baltuch teaches everything noted above including a gripping portion formed in the body by at least one arcuate depression for human handing of the cutter 10. The arcuate depression between the head 14 and the handle 16 could be as a grip portion for human handling of the cutter 10. See Figs. 1-5 in Baltuch.

Regarding claims 16-20, Baun as modified by Baltuch teaches everything noted above including that the cutter blade 12 is positioned to extend into the tubing receiving region 18 a distance less than the specified wall thickness of the tubing. Tubing with specified wall thickness, which is less than the extended distance of the blade into the tubing receiving region can be inherently, be inserted into the tubing receiving region. Baun as modified by Baltuch also teaches that the tube cutter includes cooperating protrusion and recess for aligning the body pieces together. Cooperating protrusions and recesses inherently

are located within their interior surfaces of the body pieces 11, and 12. See Figs. 1-5 in Baltuch.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baun in view of Baltuch, as applied in claim 1, in further view of Janky. Regarding claim 5, Baun as modified by Baltuch teaches everything noted above except that the cutter is made of high density polyethylene. However, Janky teaches a cutter made of high density polyethylene. Se col. 3, lines 61-67 and col. 4, lines 1-5 in Janky. It would have been obvious to a person of ordinary skill I the art to make Baun's cutter, as modified by Baltuch, from high density polyethylene material as taught by Janky in order to ensure that the cutter resist moisture, abrasion, and chemical.

To the degree that it could be argued that the arcuate portion of the body 14, 16 is not for human handing of the cutter 10 in Baun, the rejection below is applied.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baun in view of Baltuch, as applied to claim 1, and in further view of Pfeiffer. Regarding claim 15, Baun as modified by Baltuch teaches everything noted above, but Buan, as modified by Baltuch, does not expressly teach a gripping portion formed in the body by at least one arcuate depression for human handing of the cutter. However, Pfeiffer teaches a gripping portion 16 formed in a body 10 by at least one arcuate depression for human handing of the cutter. See Fig. 2 and col.5, lines 6-15 in Pfeiffer. It would have been obvious to a person of ordinary skill I the art to provide Baun's cutter, as modified by Baltuch, with a griping portion as taught by Pfeiffer in order to facilitate the gripping of the cutter or alternatively use the

gripper portion for gripping the cutter instead of gripping the handle, since both gripping the handle or the body serves the same purpose which is holding the cutter.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brooks (2,961,765), Steiner et al. (5,325,587), VanderPol et al. (4,890,385), Hochfeld (4,852,255), Chang (2002/0083593), Hopper (4,146,959), Anderson (2,869,413), Chou (6,032,371), Wrate (6,202,307), Spiro (3,335,492), Foley (1,866,095), Erpenbeck (4,092,775), McCasland (5,887,346), County (4,177,557), and Hochfeld (5,123,320) teach a tubing cutter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

October 26, 2004

Allan N. Shoap
Supervisory Patent Examiner
Group 3700